

REMARKS

Claims 1-4 and 13-28 are pending in the instant application. The Examiner has stated that the claims are directed to the following inventions or groups, which are not so linked as to form a single general inventive concept under PCT Rule 13.1:

Group I, Claims 1-4, 13 (in part), drawn to compounds and compositions of formula I in which R⁴ is a heterocycle;

Group II, Claims 1-4, 13 (in part), drawn to compounds and compositions of formula I not covered by the above group;

Group III, Claims 14-18, drawn to a method of modulating protein kinases and treating protein-kinase related disorders;

Group IV, Claims 19, 21-28, drawn to a method of treating cancer in a mammal; and

Group V, Claim 20, drawn to a method of treating retinal vascularization.

The Examiner has stated that the inventions of Groups I-V do not relate to a single general inventive concept. In accordance with 37 CFR 1.499, Applicants hereby elect, with traverse, the invention of Group II set out above.

Applicants respectfully note that research in the area of small molecule inhibitors of tyrosine kinase has taken place only in the last 20 years, prior to the earliest priority date accorded the instant application. Applicants also note that the connection between tyrosine kinases, in particular KDR and macular degeneration, diabetic retinopathy and retinal ischemia has taken place only in the last 15 years. Applicants therefore respectfully contend that a search of the scientific and patent art in the twenty years prior to April 12, 2002 (the priority date of the instant application), for any disclosure of the use of the instant compound in the treatment of angiogenic associated diseases should be comprehensive with respect to the invention as originally claimed, yet clearly would not be an undue burden on the Examiner in light of the extensive electronic searching tools now available to the Examiner.

Applicants note MPEP 803 provides:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Because there would be no serious burden on the Examiner in searching such a narrowly defined invention in such a recently initiated area of research, Applicants respectfully contend that the restriction requirement set forth by the Examiner is improper and should be withdrawn.

Applicants respectfully contend that Claims 1-4 and 13-28 as filed are allowable and an early Notice of Allowance is earnestly solicited. If a telephonic communication with Applicant's representative will aid in the advancement of the prosecution of this application, please telephone the representative indicated below.

Respectfully submitted,

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